

4-23-1. Short title.

This chapter shall be known and may be cited as the "Agricultural and Wildlife Damage Prevention Act."

Enacted by Chapter 2, 1979 General Session

4-23-2. Purpose declaration.

The Legislature finds and declares that it is important to the economy of the state to maintain agricultural production at its highest possible level and at the same time, to promote, to protect, and preserve the wildlife resources of the state.

Enacted by Chapter 2, 1979 General Session

4-23-3. Definitions.

As used in this chapter:

- (1) "Agricultural crops" means any product of cultivation;
- (2) "Board" means the Agricultural and Wildlife Damage Prevention Board;
- (3) "Bounty" means the monetary compensation paid persons for the harvest of predatory or depredating animals;
- (4) "Damage" means any injury or loss to livestock, poultry, agricultural crops, or wildlife inflicted by predatory or depredating animals or depredating birds;
- (5) "Depredating animal" means a field mouse, gopher, ground squirrel, jack rabbit, raccoon, or prairie dog;
- (6) "Depredating bird" means a Brewer's blackbird or starling;
- (7) "Livestock" means cattle, horses, mules, sheep, goats, and swine;
- (8) "Predatory animal" means any coyote; and
- (9) "Wildlife" means any form of animal life generally living in a state of nature, except a predatory animal or a depredating animal or bird.

Amended by Chapter 109, 1989 General Session

4-23-4. Agricultural and Wildlife Damage Prevention Board created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation.

(1) There is created an Agricultural and Wildlife Damage Prevention Board composed of the commissioner and the director of the Division of Wildlife Resources, who shall serve, respectively, as the board's chair and vice chair, together with seven other members appointed by the governor to four-year terms of office as follows:

- (a) one sheep producer representing wool growers of the state;
 - (b) one cattle producer representing range cattle producers of the state;
 - (c) one person from the United States Department of Agriculture;
 - (d) one agricultural landowner representing agricultural landowners of the state;
 - (e) one person representing wildlife interests in the state;
 - (f) one person from the United States Forest Service; and
 - (g) one person from the United States Bureau of Land Management.
- (2) Appointees' term of office shall commence June 1.
- (3) (a) Except as required by Subsection (3)(b), as terms of current board

members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) Attendance of five members at a duly called meeting shall constitute a quorum for the transaction of official business. The board shall convene at the times and places prescribed by the chair or vice chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 324, 2010 General Session

4-23-5. Board responsibilities -- Damage prevention policy -- Rules -- Methods to control predators and depredating birds and animals.

(1) The board is responsible for the formulation of the agricultural and wildlife damage prevention policy of the state and in conjunction with its responsibility may, consistent with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to implement its policy which shall be administered by the department.

(2) In its policy deliberations the board shall:

(a) specify programs designed to prevent damage to livestock, poultry, and agricultural crops; and

(b) specify methods for the prevention of damage and for the selective control of predators and depredating birds and animals including hunting, trapping, chemical toxicants, and the use of aircraft.

(3) The board may also:

(a) specify bounties on designated predatory animals and recommend procedures for the payment of bounty claims, recommend bounty districts, recommend persons not authorized to receive bounty, and recommend to the department other actions it considers advisable for the enforcement of its policies; and

(b) cooperate with federal, state, and local governments, educational institutions, and private persons or organizations, through agreement or otherwise, to effectuate its policies.

Amended by Chapter 378, 2010 General Session

4-23-6. Department to issue licenses and permits -- Department to issue aircraft use permits -- Reports.

The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956. No state agency or private person shall use any aircraft for the prevention of damage without first obtaining a use permit from the department. A state agency which contemplates the use of aircraft for the protection of agricultural crops, livestock, poultry, or wildlife shall file an application with the department for an aircraft use permit to enable the agency to issue licenses to personnel within the agency charged with the responsibility to protect such resources. Persons who desire to use privately owned aircraft for the protection of land, water, crops, wildlife, or livestock may not engage in any such protective activity without first obtaining an aircraft permit from the department. Agencies and private persons which obtain aircraft use permits shall file such reports with the department as it deems necessary in the administration of its licensing authority.

Amended by Chapter 378, 2010 General Session

4-23-7. Annual fees on sheep, goats, cattle, and turkeys -- Determination by board -- Collection methods.

(1) To assist the department in meeting the annual expense of administering this chapter, the following annual predator control fees are imposed upon animals owned by persons whose interests this chapter is designed to protect:

Sheep and goats (except on farm dairy goats or feeder lambs).....	at least \$.70 but not more than \$1 per head
Cattle (except on farm dairy cattle).....	at least \$.15 but not more than \$.50 per head
Turkeys (breeding stock only).....	at least \$.05 but not more than \$.10 per head

(2) The amount of the fees imposed upon each category of animals specified in this section shall be determined by the board annually on or before January 1 of each year.

(3) (a) Fee brand inspected cattle are subject to a predator control fee upon change of ownership or slaughter.

(b) The fee shall be collected by the local brand inspector at the time of the inspection of cattle, or withheld and paid by the market from proceeds derived from the sale of the cattle.

(c) Cattle that are fee brand inspected prior to confinement to a feedlot are not subject to any subsequent predator control fee.

(4) (a) Fleece of sheared sheep is subject to a predator control fee upon sale of the fleece.

(b) (i) The fee shall be withheld and paid by the marketing agency or purchaser of wool from proceeds derived from the sale of the fleece.

(ii) The department shall enter into cooperative agreements with in-state and out-of-state wool warehouses and wool processing facilities for the collection of predator control fees on the fleece of sheep that graze on private or public range in the state.

(c) The fee shall be based on the number of pounds of wool divided by 10

pounds for white face sheep and five pounds for black face sheep.

(5) Predator control fees on turkey breeding stock shall be paid by the turkey cooperative.

(6) (a) Livestock owners shall pay a predator control fee on any livestock that uses public or private range in the state which is not otherwise subject to the fee under Subsection (3) or (4).

(b) By January 1, the commissioner shall mail to each owner of livestock specified in Subsection (6)(a) a reporting form requiring sufficient information on the type and number of livestock grazed in the state and indicating the fee imposed for each category of livestock.

(c) Each owner shall file the completed form and the appropriate fee with the commissioner before April 1.

(d) If any person who receives the reporting form fails to return the completed form and the imposed fee as required, the commissioner is authorized to commence suit through the office of the attorney general, in a court of competent jurisdiction, to collect the imposed fee, the amount of which shall be as determined by the commissioner.

(7) All fees collected under this section shall be remitted to the department and deposited in the Agricultural and Wildlife Damage Prevention Account.

Amended by Chapter 73, 2010 General Session

4-23-7.5. Agricultural and Wildlife Damage Prevention Account.

(1) There is created in the General Fund a restricted account known as the Agricultural and Wildlife Damage Prevention Account.

(2) Money received under Section 4-23-7 shall be deposited by the commissioner of agriculture and food in the Agricultural and Wildlife Damage Prevention Account to be appropriated for the purposes provided in this chapter.

(3) Any supplemental contributions received by the department from livestock owners for predator control programs shall be deposited into the Agricultural and Wildlife Damage Prevention Account.

Amended by Chapter 17, 2009 General Session

4-23-8. Proceeds of sheep fee -- Refund of sheep fees -- Annual audit of books, records, and accounts.

(1) (a) Subject to the other provisions of this Subsection (1), the commissioner may spend an amount each year from the proceeds collected from the fee imposed on sheep for the promotion, advancement, and protection of the sheep interests of the state.

(b) The amount described in Subsection (1)(a) shall be the equivalent to an amount that:

(i) equals or exceeds 18 cents per head; and

(ii) equals or is less than 25 cents per head.

(c) The commissioner shall set the amount described in Subsection (1)(a):

(i) on or before January 1 of each year; and

(ii) in consultation with one or more statewide organizations that represent persons who grow wool.

(d) All costs to promote or advance sheep interests shall be deducted from the total revenue collected before calculating the annual budget request, which shall be made by the Division of Wildlife Resources as specified in Section 4-23-9.

(e) A sheep fee is refundable in an amount equal to that part of the fee used to promote, advance, or protect sheep interests.

(f) A refund claim shall be filed with the department on or before January 1 of the year immediately succeeding the year for which the fee was paid.

(g) A refund claim shall be certified by the department to the state treasurer for payment from the Agricultural and Wildlife Damage Prevention Account created in Section 4-23-7.5.

(2) Any expense incurred by the department in administering refunds shall be paid from funds allocated for the promotion, advancement, and protection of the sheep interests of the state.

(3) (a) The books, records, and accounts of the Utah Woolgrowers Association, or any other organization which receives funds from the agricultural and wildlife damage prevention account, for the purpose of promoting, advancing, or protecting the sheep interests of the state, shall be audited at least once annually by a licensed accountant.

(b) The results of this audit shall be submitted to the commissioner.

Amended by Chapter 73, 2010 General Session

Amended by Chapter 378, 2010 General Session

4-23-9. Annual budget requests -- Relation to amount of fees and supplemental contributions deposited in Agricultural and Wildlife Damage Prevention Account -- Commissioner to certify amount deposited.

(1) (a) The department in its annual budget request shall include a request for funds from the General Fund equal in amount to 120% of the amount of the fees and supplemental contributions deposited in the Agricultural and Wildlife and Damage Prevention Account during the previous fiscal year.

(b) The funds shall be used for the purposes provided in this chapter.

(2) (a) The Division of Wildlife Resources in its annual budget request shall include a request for funds from the General Fund equal to 25% of the amount of the fees and supplemental contributions deposited in the Agricultural and Wildlife Damage Prevention Account during the previous fiscal year.

(b) The funds shall be used for the purposes provided in this chapter.

(c) The commissioner shall certify annually to the director of the Division of Wildlife Resources before September 1, the amount of revenue deposited to the Agricultural and Wildlife Damage Prevention Account during the previous fiscal year.

Amended by Chapter 98, 1994 General Session

4-23-10. Applicability of chapter.

This chapter, unless contrary to a federal statute, shall apply to all federal, state, and private lands.

Enacted by Chapter 2, 1979 General Session

4-23-11. Holding a raccoon or coyote in captivity prohibited -- Penalty.

(1) No person may hold in captivity a raccoon or coyote, except as provided by rules of the Agricultural and Wildlife Damage Prevention Board.

(2) The Division of Wildlife Resources, with the cooperation of the Department of Agriculture and Food and the Department of Health, shall enforce this section.

(3) Any violation of this section is a class B misdemeanor.

(4) This section does not prohibit a person from continuing to keep a raccoon or coyote that he owns as of the effective date of this act.

Amended by Chapter 82, 1997 General Session